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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS

425 Eye Street N.W.

ULLB, 3rd Floor

Washington, D.C. 20536

FILE

Office: California Service Center

Date:

FEB 05 2003

IN RE: Petitioner:
Beneficiary

APPLICATION:

Petition for Alien Fiancé(e) under Section 101(a)(15)(K) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

IN BEHALF OF PETITIONER: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner is a native of Vietnam and naturalized citizen of the United States. The beneficiary is a native and citizen of Vietnam. The director denied the petition after determining that the petitioner had failed to provide evidence that his prior marriage had been terminated and he was, therefore, able to enter into a valid marriage in the United States.

At the time a fiancée visa petition is filed, both the petitioner and the beneficiary must be unmarried and free to validly marry. *Matter of Souza*, 14 I&N Dec. 1 (Reg. Comm. 1972).

On appeal, the petitioner states that he and his ex-wife were separated in May 1984 and were advised that, since they did not have a marriage license in the United States, they could settle matters with a non-marital settlement agreement. The petitioner indicates that he needs an additional 180 days to obtain the final divorce decree.

8 C.F.R. § 103.3(v) states that an appeal shall be summarily dismissed when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The applicant has failed to identify any erroneous conclusion of law or statement of fact, therefore, the appeal will be summarily dismissed.

This decision is without prejudice to the filing of a new petition supported by the appropriate documentation.

ORDER: The appeal is summarily dismissed.